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| 10/551,743 | 09/11/2006 | Minoru Mamiya | 1625-202 | 4273 |

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| EXAMINER | |
|---|---|
| MCCLAIN-COLEMAN, TYNESHA L. | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1789 | |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/551,743 | MAMIYA, MINORU | |
| | Examiner | Art Unit | |
| | TYNESHA MCCLAIN-COLEMAN | 1789 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *04 October 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1,3-4,6,8,9,11 and 12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3,4,6,8,9,11 and 12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *30 September 2005 and 04 October 2010* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

**DETAILED ACTION**

1. The amendment filed October 4, 2010 is acknowledged. Claims 1, 3-4, 6, 8-9, and 11-12 are pending in the application. Claims 2, 5, 7, and 10 have been cancelled.

***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 3-4, 6, 8-9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Schuppan* US 6099877 (hereinafter "*Schuppan*").

4. Regarding claims 1 and 6, *Schuppan* discloses mixing cottonseed and soybean oils and silica gel (granular or powdered) over heat to form a smooth consistent gel (column 3, line 23; and column 6, lines 30-35). The mixture may be prepared in a pan or pot (base) (column 8, lines 49-55; and column 9, lines 9-13). A small piece of the gel was taken and formed into a desired shape (column 6, lines 35-41).

5. *Schuppan* is silent with respect to the gel film formed only from cooking oil. Given that *Schuppan* discloses the silica gel is suspended in the soybean oil and cottonseed oil (column 3, lines 21-29; and claims 1and 5) and the silica gel remains as residue once the gel composition (comprising soybean oil, cottonseed oil, and silica gel) is completely burned down, it is expected that the gel disclosed by *Schuppan* is formed only from the cottonseed oil and soybean oil, absent any clear and convincing evidence to the contrary.

6. However, *Schuppan* does not disclose bringing the surface of the cottonseed and soybean oils applied onto the surface of the pan or pot into contact with a flame.

7. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to bring the surface of the mixture comprising cottonseed oil and soybean oil applied onto the surface of the pan or pot into contact with a flame.

8. One having ordinary skill in the art would have been motivated to do this because *Schuppan* teaches the mixture of soybean oil and cottonseed oil may be contacted with a flame since the composition may be ignited (column 6, lines 41-43; column 7, lines 54-55 and 61-63; and column 8, lines 1 and 5). Additionally, *Schuppan* discloses exposing the composition to heat in order to thoroughly mix the components and to obtain the desired texture (column 6, lines 38-39; and column 8, lines 49-55). Also, the direction from which the heat source is applied (i.e. through the bottom of the pan/pot or from the surface of the mixture) is not seen as critical as the product formed from the heated oil mixture is gelatinous. Therefore, it would have been obvious to bring the surface of the mixture comprising cottonseed oil and soybean oil applied onto the surface of the pan or pot into contact with a flame with the expectation of successfully preparing a gelled product comprising a mixture of cottonseed oil, soybean oil, and suspended particles of silica gel.

9. *Schuppan* also does not disclose the film has a peeling property relative to a base (pot or pan). It is noted that the phrase "peeling property relative to a base" does not delimit any measure of relativity. The materials of *Schuppan* inherently have peeling properties. Additionally, *Schuppan* discloses a small piece of the gelled

composition was removed from the pot or pan (column 6, lines 36-37; and column 7, lines 1-2). Therefore, the composition disclosed by *Schuppan* is considered to have a peeling property that is relative to a base (pot or pan) given that there is no limitation to the relativity between the film and the base as written in the claim. Further, as the composition of *Schuppan* is formed in a similar manner as that of the applicant (oil formed on a surface that subsequently burned with a flame), the composition of *Schuppan* is expected to be capable of being peeled from the base surface.

10. With respect to claims 3-4 and 8-9, *Schuppan* discloses various vegetable oils such as palm seed oil, soybean oil, and cottonseed oil may be used (column 3, lines 28-29), and it is well known in the art that these cooking oils comprise fats as well as linoleic and/or linolenic acid (unsaturated fatty acids).

11. Regarding claim 11, the recitation in the preamble that the method is "for preventing an object to be treated from sticking to a base due to the base contacting the object" is merely an intended use. Applicants attention is drawn to MPEP 2111.02 which states that intended use statements must be evaluated to determine whether the intended use results in a structural difference between the claimed invention and the prior art. Only if such structural difference exists, does the recitation serve to limit the claim. If the prior art structure is capable of performing the intended use, then it meets the claim.

12. It is the examiner's position that the intended use recited in the present claims does not result in a structural difference between the presently claimed invention and the prior art and further that the prior art structure is capable of performing the intended

use. Given that *Schuppan* disclose applying cooking oil onto a surface of a pot or pan (base) and bringing the surface of the cooking oil applied onto the base into contact with a flame as presently claimed, it is clear that the method of *Schuppan* would be capable of performing the intended use, i.e. preventing an object to be treated from sticking to a base due to the base contacting the object, presently claimed as required in the above cited portion of the MPEP.

13. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Schuppan* US 6099877 (hereinafter "*Schuppan*") in view of *Babrauskas*," Temperatures in Flames and Fires," April 1997, retrieved from the Internet: URL: http://www.interfire.org/features/tempertures_flames.asp (hereinafter "*Babrauskas*").

14. With respect to claim 12, *Schuppan* does not disclose the object used to ignite the composition.

15. *Babrauskas* discloses flames may be obtained from Bunsen burners and candles. The peak temperature of around 1400°C is found in a candle flame (Flame Types, pages 1-2).

16. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the Bunsen burner or the candle disclosed by *Babrauskas* to ignite the composition disclosed by *Schuppan*.

17. One having ordinary skill in the art would have been motivated to do this because *Schuppan* discloses the composition is ignited, and *Babrauskas* discloses the peak temperature of around 1400°C is found in a candle flame, which falls within the range

claimed by the applicant. Further, it is well known in the art to ignite compositions using various sources of flames such as other candles, matches, lighters, Bunsen burners, and the like, and the temperature of the flame used to ignite the composition disclosed by *Schuppan* is contingent upon the fuel source feeding the fire. Therefore, it would have been obvious to use the Bunsen burner or the candle disclosed by *Babrauskas* to ignite the composition disclosed by *Schuppan* with the expectation of successfully preparing a gelled product comprising a mixture of cottonseed oil, soybean oil, and suspended particles of silica gel.

***Response to Arguments***

18. Applicant's arguments filed October 4, 2010 is acknowledged.

19. Due to the corrected drawings submitted on October 4, 2010, all objections to the drawings have been withdrawn (see 4).

20. Due to the amendments to claims 1 and 6, the rejection of claims 1 and 6 over *Chiu* and claims 1-10 over *Truesdell* in view of *Chiu* have been withdrawn. Therefore, applicant's arguments are moot in view of new ground(s) of rejection (see pages 5-7). As disclosed above, *Schuppan* discloses a method of making a gelled product that is similar to that claimed by the applicant.

***Conclusion***

21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

22. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to TYNESHA MCCLAIN-COLEMAN whose telephone number is (571)270-1153. The examiner can normally be reached on Monday - Thursday 7:30AM - 5:00PM Eastern Time.

24. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer McNeil can be reached on (571)272-1540. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

25. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/TYNESHA L MCCLAIN-COLEMAN/
Examiner, Art Unit 1789

/Jennifer C McNeil/
Supervisory Patent Examiner, Art Unit 1784